

No-/14/13/87-6 Lab-/384.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of Chief Engineer, Public Works Department (P.H.), Haryana, Chandigarh *versus* Anil Kumar.

IN THE COURT OF SHRI S. R. BANSAL (ADDL. DIST. AND SESSIONS JUDGE), PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 297 of 89

SHRI ANIL KUMAR SON OF SHRI VED PARKASH THROUGH SHRI SAT PARKASH,
SHAZADPUR MAJRA, TEHSIL NARAINGARH, DISTT. AMBALA .. *Workman*

versus

(1) CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT (PUBLIC HEALTH), HARYANA,
CHANDIGARH (2) EXECUTIVE ENGINEER, PUBLIC WORKS DEPARTMENT
(PUBLIC HEALTH) DIVISION, NARAINGARH (AMBALA) .. *Management*

Present :

WR. Shri Madan Gopal.

MR. Shri Raghubir Singh, ADA.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workman Shri Anil Kumar and the management (1) Chief Engineer, Public Works Department (Public Health), Haryana, Chandigarh; (2) Executive Engineer, Public Works Department (Public Health) Division, Naraingarh (Ambala), to this court for adjudication.—*vide* Haryana Government Notification bearing No. 33586-591, dated 8th August, 1989 :—

Whether the services of Shri Anil Kumar has been terminated or he himself left the job by absenteeism ? If so, to what relief is he entitled ?

The workman raised an industrial dispute by serving a demand notice dated 6th June 1989 under section 2-A of the Act. The conciliation proceedings were taken up by the Labour Officer-cum-Conciliation Officer. The same having failed, the appropriate government made the above mentioned reference to this court.

On receipt of the reference notice were issued to the workman as well as to the management. The workman appeared and submitted his statement of claim dated 25th January, 1990. The stand taken by the workman is that he joined the service of the management as fitter Kooli on 1st February, 1988 and worked as such upto 5th December, 1988 when his services were terminated without giving any prior notice or payment of retrenchment compensation. The workman, therefore, demanded his reinstatement with continuity of service and back wages.

The management appeared and resisted the claim. The stand of the management in the return filed is that the workman worked from 1st February, 1988 to 30th November, 1988 on daily wages basis and thereafter did not come present on duty and voluntarily abandoned his job and that his services were never terminated. It is also pleaded that he is estopped from filing the claim statement by his own act and conduct nor this court has jurisdiction to adjudicate the present claim as the Public Works Department, Public Health is not covered under the definition of industry.

The workman submitted replication controverting the allegations of the management in the written statement filed and reiterating those made in the claim statement. One of my learned predecessor,—*vide* his order dated 14th November, 1990 settled the under mentioned issues :—

1. Whether services of the workman were terminated or he relinquished the lien by absence ?
OPP
2. If Issue No. 1 is proved in favour of the workman whether impugned termination of services of workman invalid ? OPM
3. Whether this court has no jurisdiction to try the reference for the reasons stated in preliminary objection No. 1 of the WS ? OPM
4. Whether the workman is estopped by his act and conduct from filing the petition ? OPM

5. Whether the petition is bad for non-joinder and mis-joinder of necessary parties ? OPM
6. Relief.

Parties led evidence. I have heard the representative of the parties. My issue wise findings are as under :—

Issues No- 1 and 2 :

Both these issues are inter-linked and are being taken up together.

Shri Anil Kumar, workman appeared as WW-1 and broadly supported all the allegations made by him in the claim statement. He stated that he joined the management on 1st February, 1988 and served them upto 5th December, 1988 when his services were terminated. During cross-examination he clarified that no appointment letter was issued to him. In rebuttal the management produced Shri Kedar Nath, JE who admitted that the workman served the management from 1st February, 1988 to 30th November, 1988. During cross-examination he gave the details of number of working days month-wise of the service rendered by the workman. The detail given is as follows :—

February, 1988	29 days
March, 1988	31 days
April, 1988	27 days
May, 1988	30 days
June, 1988	30 days
July, 1988	26 days
August, 1988	31 days
September, 1988	26 days
October, 1988	29 days
November, 1988	29 days

If we take the above statement of this witness the workman served for more than 240 days of service in a period preceeding twelve months in a calendar year. That being so he becomes entitled to the protection of Section 25-F of the Act which is mandatory in nature. It is admitted position of the record that no charge-sheet was served nor any prior notice was given before terminating the services of the workman. Similarly no retrenchment compensation was paid. Under these circumstances the termination of the services of workman is patently illegal and he is entitled to reinstatement with continuity of service. The workman served the management upto the month of November, 1988 and he raised the industrial dispute soon thereafter. According to the statement made that he remained unemployed even otherwise the law as applicable in case is that the back wages follows the reinstatement. The workman, therefore, shall be entitled to back wages as well. The finding on these issues shall, therefore, stand returned in favour of the workman and against the management.

Issues No. 3 to 5 :

The onus to prove on these issues was on the management. The management has however not proved any of these issues. In the absence of any proof more allegations made in the written statement can not be taken as correct. The finding on these issues, shall stand returned against the management and in favour of the workman.

Relief :

In the end, it is held that the workman is entitled to reinstatement with continuity of service and back wages.

The reference shall stand answered accordingly.

S. R. BANSAL,

The 31st January, 1995.

Addl. Distt. & Sessions Judge,
Presiding Officer, Labour Court,
Ambala.

Endorsement No. 146, dated 7th February, 1995.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Add. Distt. & Sessions Judge,
Presiding Officer, Labour Court, Ambala.

The 3rd April, 1995

No. 14/13/87-6 Lab./484.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s R. P. Hydro Oil Ltd., Ramrai district Jind *versus* Ompal Singh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 184 of 1994

between

THE WORKMAN SHRI OM PAL SINGH C/O SHRI H. S. LATHER, WARD NO. 5,
JULANA, DISTRICT JIND, *Workman*

and

THE MANAGEMENT OF M/S R. P. HYDEROIL LTD., RAMRAI, DISTRICT JIND.

Present :

None, for the parties.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication,—*vide* Labour Department Endorsement No. ID/BHI/147-93/43664—69, dated the 4th November, 1993 :—

Whether the termination of services of Shri Om Pal Singh is justified and in order ? If not, to what relief he is entitled ?

2. The case was called several times, but no one is present on behalf of the parties. Hence the reference petition of the workman is dismissed in default. The reference is answered and returned accordingly, with no orders as to costs.

The 28th February, 1995.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 482, dated the 9th March, 1995.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.